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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,333	12/06/2000	Roger D. Pirkey	10942/269227	1489

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/732,333

Applicant(s)

PIRKEY ET AL.

Examiner

Michael Pyzocha

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.



**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Examiner withdraws the rejection under 35 USC 112 1st paragraph based on applicant's argument that a list associated with a plurality of subscribers would be included in the "whole system." Applicant's arguments regarding the prior have been considered but are not persuasive. Applicant also argues: Rosenthal fails to disclose an always allow list; Rosenthal only relates to a single subscriber; Rosenthal does disclose the first and second lists (subscriber and always allow); Gaukel does not disclose a plurality of subscribers; there is no motivation to combine Gaukel with Rosenthal; Mijares fails to disclose the always require PIN list; Redd lacks motivation to be combined with Rosenthal; and Rudokas fails to disclose a list based on fraudulent users.

Rosenthal discloses an always allow list because when an entry is marked with a "P" it is on the allowed list permanently and therefore is always allowed. Rosenthal also discloses a list for a plurality of users in claim 5. Also the list is made up of two sub lists "T" for temporary and "P" for permanent, which correspond to the subscriber list and always allow list. Gaukel teaches an always deny list related to a plurality of users because it restricts calls for the whole system as described in column 3 lines 49-58. The motivation to combine Gaukel's teaching of an always deny list is as stated in the prior action to allow for the ability to restrict partial numbers. Mijares teaches the always require PIN list as stated in the previous action by having a list of numbers which require a PIN in order to call as cited in column 9. Examiner only relies upon Redd's teaching of an always allow list for emergency calls and not that it is for an incoming call. Also the motivation to save time still holds from this teaching. Rudokas is only relied upon for its teaching of a fraudulent users and the examiner states that it would have been obvious to restrict (as in the modified Rosenthal and Gaukel system using an always deny list) the calls to prevent cloned systems from making fraudulent calls..